



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

VIA UPS

OCT 02 2014

David Beatson, General Manager
Thorlabs Quantum Electronics
10335 Guilford Road
Jessup, MD 20794

Re: Notice of Violation
Compliance Evaluation Inspection
May 27, 2014

Docket No.: R3-14-NOV-RCRA-25

Dear Mr. Beatson:

On May 27, 2014, the U.S. Environmental Protection Agency, Region III ("EPA") conducted a Compliance Evaluation Inspection ("CEI") of Thorlabs Quantum Electronics ("the Facility" or "TQE") located in Jessup, Maryland under the federally authorized Code of Maryland Regulations ("COMAR") and the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. Sections 6901 et seq. Based on the CEI, EPA has determined that TQE has violated regulations under COMAR and RCRA. As a result of this determination, EPA is issuing this Notice of Violation ("NOV"). The specific violation(s) are:

1. During the May 27, 2014 EPA CEI, the EPA inspector observed a container of spent cleaning solvent in the Polishing Room. Please see Photo #20 and Photo #21 in the Photographic Log of the EPA inspection report provided as Attachment A. At the time of the CEI, the container of spent solvent was topped with an open funnel and not labeled. Based on the information gathered during the EPA CEI, the Facility failed to keep the container of spent hazardous waste solvent closed when not adding or removing waste in violation of COMAR 26.13.05.09D, as referenced in COMAR 26.13.03.05E(1)(d), which references COMAR 26.13.05.09. The Facility also failed to mark the container with the words "Hazardous Waste" or with words to describe the content of the container in accordance with COMAR 26.13.03.05E(3)(b).
2. During the May 27, 2014 EPA CEI, the EPA inspector observed an open drum of solvent contaminated personal protective equipment ("PPE") waste in the Solvent Waste Storage Area. Please see Photo #28 and Photo #29 in the Photographic Log of the EPA inspection report provided as Attachment A. The container was filled with PPE waste, and it was labeled with the words "Hazardous Waste" and as "Solvent Solids/PPE Waste." Based on the information gathered during the EPA CEI, the Facility failed to keep the container of hazardous waste closed when not adding or removing waste in violation of COMAR 26.13.05.09D, as referenced in COMAR 26.13.03.05E(1)(d), which references COMAR 26.13.05.09.

3. During the May 27, 2014 EPA CEI, Facility representatives stated that TQE occasionally generates spent aerosol cans, and the spent aerosol cans generated by the Facility are disposed of with its regular trash. In a June 19, 2014 e-mail correspondence, Mr. Beatson provided material safety data sheets for aerosol can products used at the Facility. Due to the types of propellants and products typically found in aerosol cans used by the Facility, the contents of such cans exhibit a characteristic of hazardous waste. Therefore, the Facility failed to make a waste determination for its spent aerosol cans prior to disposal in accordance with COMAR 26.13.03.02A.
4. During the May 27, 2014 EPA CEI, the EPA inspector noted the following hazardous waste manifests were not signed and returned by TQE's treatment, storage, and disposal ("TSD") facilities: #004999919 FLE dated 4/16/12, #004999920 FLE dated 4/16/12, #0004999921 FLE dated 4/16/12, #004998180 FLE 4/23/13, and #004998181 FLE dated 4/23/13. In a June 4, 2014 e-mail correspondence, Mr. Beatson provided the TSD facility signed copies of the aforementioned hazardous waste manifests, and he indicated that the manifests were reconciled from the TSD facilities after the May 27, 2014 EPA CEI. In accordance with COMAR 26.13.03.06C(2), a generator must submit an exception report if the generator has not received a copy of the signed manifest from the TSD facility within 30 days of the date the waste was accepted by the initial transporter. Based on the information gathered during and after the EPA CEI, TQE failed to submit an exception report in violation of COMAR 26.13.03.06C(2).

Areas of Concern

During the May 27, 2014 EPA CEI of the Utility/Mechanical Room, the EPA inspector observed a white container of Enthone waste that was closed, labeled with the words "Hazardous Waste", and not dated with the accumulation start date. Please see Photo #7 in the Photographic Log of the EPA inspection report provided as Attachment A. At the time of the inspection, Facility personnel indicated that the Enthone waste is sent offsite for reclamation of its gold content. During the records review portion of the EPA CEI, the EPA inspector noted that the Enthone waste had not been sent offsite for reclamation since calendar year 2010. Per EPA regulation, if the spent Enthone hazardous waste is not sent offsite for precious metals reclamation, the container of spent Enthone would also need to be dated with the accumulation start date in accordance with 40 C.F.R § 262.34(a)(2). Please contact the Maryland Department of the Environment for further guidance regarding the regulatory requirements for recyclable hazardous materials that are reclaimed for precious metals recovery.

A copy of the EPA inspection report, documenting the findings of the inspector, is enclosed as Attachment A for your information and includes only those attachments not provided by the facility representative(s) at the time of or subsequent to the inspection.

Within **thirty (30) calendar days** of the receipt of this NOV, please submit documentation of any measures that the Facility has taken or is taking to achieve compliance with the violations noted above. If the compliance measures identified are planned or are ongoing, please provide a schedule for when the compliance measures will be completed. If the Facility can provide documentation which shows that EPA's determination of the alleged

violation(s) is in error, please submit this information as well. Section 3008(a) of RCRA authorizes EPA to take an enforcement action whenever it is determined that any person has violated, or is in violation, of any requirement of RCRA as amended. Such an action could include a penalty of up to \$37,500 per day for each violation. In addition, failure to achieve and maintain compliance with the regulations cited in this NOV may be treated as a repeated offense and may constitute a "knowing" violation of Federal law.

With regard to the Small Business Regulatory Enforcement and Fairness Act (SBREFA), please see the "Information for Small Businesses" memo, enclosed Attachment B, which might be applicable to your company. This enclosure provides information on contacting the SBREFA Ombudsman to comment on federal enforcement and compliance activities and also provides information on compliance assistance. As noted in the enclosure, any decision to participate in such program or to seek compliance assistance does not relieve you of your obligation to respond in a timely manner to an EPA request or other enforcement action, create any rights or defenses under law, and will not affect EPA's decision to pursue this enforcement action. To preserve your legal rights, you must comply with all rules governing the administrative enforcement process. The Ombudsman and fairness boards do not participate in the resolution of EPA's enforcement action. EPA has not made a determination as to whether or not you [or your company] are covered by the SBREFA.

This Notice of Violation is not intended to address all past violations, nor does it preclude EPA from including any ongoing, including the ones cited in this letter, or past violations in any future enforcement action. Your response to this NOV shall be addressed to:

Andrew Ma
U.S. Environmental Protection Agency - Region III
Environmental Science Center
701 Mapes Road
Fort Meade, MD 20755

If you have any questions regarding this matter, please feel free to contact Mr. Andrew Ma at (410) 305-3429.



Carol Amend
Associate Director
Land & Chemicals Division
Office of Land Enforcement

Oct 2, 2014
Date

Enclosures

cc: A. Ma (3LC70) w/o
B. Coblentz (MDE) w/o

